

Application No. 10/650,587  
Amdt. Dated Feb. 17, 2006  
Reply to Office Action of August 18, 2005

## REMARKS

### *Oath/Declaration*

The Office Action indicates that the oath or declaration submitted earlier in connection with this application is considered to be defective. Transmitted herewith in response is a substitute declaration appropriately identifying this application by title, application number and filing date.

### *Specification*

1. This abstract of the disclosure has been objected to because of the use of what is considered in the Office Action as "improper" use of legal phraseology, such as "comprising." The abstract of the disclosure has been amended herein in order to remove the objected to legal phraseology and is now in proper form. Reconsideration and withdrawal of the objection to the abstract of the disclosure in view of such amendment are therefore respectfully requested.

2. The title of the invention has been objected to in the Office Action for not being descriptive. The title of the invention has been amended herein to read "A stabilized fragrance candle composition including wax, fragrance, and a stabilizing composition having a UV absorber and a hindered hydroxybenzoate" in accordance with the suggestion set out in the Office Action thereby overcoming the objection thereto. Reconsideration and withdrawal of the objection to the title of the invention are therefore respectfully requested.

### *Claim Objections*

Claims 4 and 13 were objected to in the Office Action because both claims were said to recite "dodecylox" which according to the Office Action appears to be misspelled. Upon review of the claims, it was found that "dodecylox" appears in claim 6 instead of in claim 4. Accordingly claim 6 and 13 are amended herein to correct this misspelling. The term "dodecylox" is now correctly spelled as "dodecyloxy" in claims 6 and 13. Reconsideration and withdrawal of the objection to claims 4[sic] and 13 on this basis are thus respectfully requested.

### *Claim Rejections – 35 USC §102*

Claims 1-2, 5, 7-9, 12 and 14-15 were rejected under 35 U.S.C. §102(b) for allegedly being anticipated by Hyun et al. (U.S. Patent No. 6,221,115) This rejection is traversed for the following reasons.

Application No. 10/650,587  
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The present invention is directed to a stabilized fragrance candle composition. The composition comprises wax, fragrance and a stabilizing composition. The stabilizing composition comprises a UV absorber and a hindered hydroxybenzoate (claim 1). Preferably, the stabilizing composition of the present invention comprises a 2-(2-hydroxyphenyl)benzotriazole; a 2-hydroxybenzophenone; and a hindered hydroxybenzoate. (claim 9). The combination of UV absorber and hindered hydroxybenzoate as a stabilizing composition of the present invention reduces the amount of fragrance prematurely released from a candle.

In contrast, Hyun is directed to candle wax that is stabilized for color stability by the addition of a combination of a UV absorber, that can be a benzotriazole, a benzophenone, an acyanoacrylate, an oxanilide, an s-triazine, a cinnamate, a malonate, a benzoate, a salicylate, or a mixture thereof (Hyun, col. 2, lines 14-17) and a hindered amine. Although there is general disclosure of a benzoate in Hyun, Hyun fails to teach a hindered hydroxybenzoate (or to provide any guidance or motivation to select any particular type of benzoate). Moreover, the benzoate in Hyun is taught as an example of an appropriate UV absorber (to be combined with a hindered amine), not as something to be combined with a UV absorber such as is claimed. Therefore, Hyun fails to teach all of the presently claimed elements.

Claims 1-2, 5, 7-9, 12 and 14-15 would therefore not have been anticipated by Hyun. Reconsideration and withdrawal of their rejection under 35 USC §102(b) are thus earnestly solicited.

Claims 3-4, 6, 10-11, and 13 were rejected under 35 USC §103(a) for allegedly being unpatentable over Hyun in view of Wood et al. (U.S. Patent No. 6,489,383), hereinafter "Wood". The rejection is traversed for the following reasons.

The Office Action contends that the difference between the invention claimed in claims 3-4, 6, 10-11, and 13 and Hyun is the requirement that the hydroxybenzoate and the hydroxybenzophenones are those specific compounds as claimed. Therefore according to the Office Action "It would have been obvious to use interchangeably the UV absorbers of Wood with the UV absorbers of Hyun because the compounds are effective in the protection of dyes present in candle wax from premature degradation and fading, thereby obtaining the invention as set forth in the presently cited claims."

Application No. 10/650,587  
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As discussed above in connection with the rejection of claims 1-2, 5, 7-9, 12 and 14-15 under 35 USC §102(b), Hyun fails to teach (or mention) a hindered hydroxybenzoate and fails to suggest the selection of a hindered hydroxybenzoate (or any particular benzoate for that matter) from the broad class of benzoate, much less to even suggest selection of a benzoate from the list of "UV absorbers" in Hyun that include a benzotriazole, a benzophenone, an a-cyanoacrylate, an oxanilide, an s-triazine, a cinnamate, a malonate, a benzoate, a salicylate. Wood like Hyun also fails to provide such teaching or suggestion. Therefore the invention as set forth in the claims would not be obtained by combining the two references. Moreover, Wood and Hyun are directed to compositions for stabilizing candle wax against fading. There is no discussion or recognition in either reference of the problem of premature fragrance release. One of skill in the art would therefore not have looked to either reference alone or in combination to address and solve the problem of premature fragrance release as does the present invention.

Claims 3-4, 6, 10-11, and 13 would therefore not have been unpatentable over Hyun in view of Wood. Reconsideration and withdrawal of their rejection under 35 USC §103(a) are thus earnestly solicited.

Should the Examiner not yet consider this application in condition for allowance or have any question concerning this amendment, he or she is requested to telephone the undersigned at the number listed below.

Respectfully submitted,



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